

H.B. 864 (Harris of Dallas on behalf of Haley) Relating to work programs for inmates confined in county jail awaiting transfer to the institutional division of the Texas Department of Criminal Justice. (30-0) (30-0)

H.B. 1031 (Zaffirini) Relating to expenses of the court reporter for the 112th Judicial District. (30-0) (30-0)

H.B. 1076 (Harris of Tarrant) Relating to the personal liability of officers and directors of insured depository institutions. (29-0-1) Rosson "Present-not voting" (29-0-1) Rosson "Present-not voting"

**BILL REMOVED FROM
LOCAL AND UNCONTESTED BILLS CALENDAR**

<u>Number</u>	<u>Senators Removing</u>
S.B. 753	Harris of Tarrant, Haley

**CONCLUSION OF SESSION FOR
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Harris of Dallas, the Senate at 9:20 a.m. adjourned until 11:00 a.m. today.

**FIFTY-FIRST DAY
(Wednesday, April 21, 1993)**

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Nelson.

A quorum was announced present.

The Reverend Sarah Currie, Assistant Pastor, Bethany United Methodist Church, Austin, offered the invocation as follows:

Creator God, original seed, fertile ground of all being and becoming, we praise You, we bless You, we lift up our hearts to You. You have blessed us again with the mystery of spring, of life renewing life, whispering Your creative promise for all being. Thank you, God. Keep us humble today, remembering You as our

source, our founding truth. Keep us grateful today, remembering Your bounty, our blessedness in You, and the blessedness of all creation. Keep us open today, seeking the harmony that is our hearts' desire, our homecoming to You.

Companion God, You who have made us, remain with us to the end. When our love fails, Your love remains steadfast. When we do not love You with our whole hearts, when we do not love our neighbors as ourselves, You forgive us, and stay with us. Even when the darkness of fear, mistrust, prejudice, anger, threatens to consume us, Your love shines—a light upon our path. Thank you, God, for giving us another chance, today, to be with each other as You are with us—forgiving, compassionate, commanded by love. Spirit God, breath of life, source of truth, wellspring of wisdom, in love You have created us and all life, and in love You have woven us together, each life bound to each. Today give us new consciousness of that precious bond, to life, to each other, and to You. For in that connection is our hope—for healing, for wholeness, for change, for possibility, for freedom. We offer ourselves now, humble, grateful, open to Your guidance. Let the words of the prophet Amos be our aim: to seek justice, to love mercy, and to walk humbly with You, our God. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

On motion of Senator Leedom, Senator Nelson was granted leave of absence for today on account of important business.

CO-AUTHOR OF SENATE BILL 915

On motion of Senator Lucio and by unanimous consent, Senator Bivins will be shown as Co-author of S.B. 915.

CO-AUTHOR OF SENATE BILL 1292

On motion of Senator Bivins and by unanimous consent, Senator Lucio will be shown as Co-author of S.B. 1292.

CO-AUTHOR OF SENATE BILL 1382

On motion of Senator Henderson and by unanimous consent, Senator Shelley will be shown as Co-author of S.B. 1382.

CO-SPONSOR OF HOUSE BILL 1179

On motion of Senator Sims and by unanimous consent, Senator Barrientos will be shown as Co-sponsor of H.B. 1179.

PERMISSION TO INTRODUCE BILLS

On motion of Senator Harris of Dallas and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bills:

S.B. 1391
S.B. 1392
S.B. 1393
S.B. 1394
S.B. 1395
S.B. 1396
S.B. 1397

(Senator Shelley in Chair)

BILLS AND RESOLUTION SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

H.C.R. 99	S.B. 502
H.B. 771	S.B. 503
H.B. 813	S.B. 504
H.B. 941	S.B. 615
S.B. 196	S.B. 1069
S.B. 266	

CAPITOL PHYSICIAN

Senator Luna was recognized and presented Dr. Emilio B. Apostol of San Antonio as the "Doctor for the Day."

The Senate welcomed Dr. Apostol and his wife and thanked the doctor for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE RESOLUTION 654

Senator Haley offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to recognize the members of the Silver-Haired Legislature who meet for the purpose of considering and drafting resolutions concerning the needs of older Texans; and

WHEREAS, Silver-Haired legislators generously volunteer their time and energy, serving without compensation, on behalf of Texas' elderly population; and

WHEREAS, Elected for a two-year term, representatives make a valuable contribution to the state by informing the state legislature of the requirements of older Texans and identifying concerns for the future; and

WHEREAS, Goals established by the Silver-Haired Legislature include encouraging legislative involvement by older citizens in an effort to help them become a viable political force in their communities; and

WHEREAS, The Silver-Haired Legislature also provides an avenue through which older citizens may serve as a resource to public and private sectors, boards, and commissions; and

WHEREAS, The Silver-Haired Legislature is a nonpartisan organization comprised of men and women who are respected leaders in their

communities and exemplary citizens; it is important that these individuals be recognized for the significant contributions they make to their state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 73rd Legislature, hereby commend the Silver-Haired Legislature for its hard work and extend best wishes for an enjoyable session; and, be it further

RESOLVED, That copies of this Resolution be prepared for members of the Silver-Haired Legislature as an expression of high regard from the Texas Senate.

The resolution was read and was adopted by a viva voce vote.

SENATE BILL 779 WITH HOUSE AMENDMENT

Senator Armbrister called S.B. 779 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. 779 on page 1 to read as follows:

Amend line 7, following "INSTALLER", by striking "." and adding "OR SERVICER".

Amend line 9, following "installed", by adding "or served".

Amend line 12, following "installation", by striking "." and adding "or service; and".

Amend line 13, following "installation", by adding "or service".

The amendment was read.

Senator Armbrister moved to concur in the House amendment to S.B. 779.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

(President in Chair)

SENATE BILL 610 WITH HOUSE AMENDMENT

Senator Henderson called S.B. 610 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. 610, page 2, line 13, after "designee" by striking the period and adding, "except in those counties that have no county treasurer, in which case the County Commissioners Court may designate the person who carries out the duties of the county treasurer to serve on the board."

The amendment was read.

Senator Henderson moved to concur in the House amendment to S.B. 610.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

SENATE BILL 469 WITH HOUSE AMENDMENT

Senator Sims called S.B. 469 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend S.B. 469, Section 1, by adding the following new Subsection (c) (7) and renumbering accordingly:

(7) the Director of the Texas Agricultural Experiment Station

Amend S.B. 469, Section 1, by substituting "g" for "Z" on line 23.

The amendment was read.

Senator Sims moved to concur in the House amendment to S.B. 469.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

SENATE RESOLUTION 650

Senator Truan offered the following resolution:

WHEREAS, Corpus Christi Day will be celebrated at the State Capitol on April 21, 1993; and

WHEREAS, The Corpus Christi Chamber of Commerce will host a shrimp reception at 5:00 p.m. in the Burnt Orange Room of the Frank Erwin, Jr., Special Events Center honoring the Members of the 73rd Texas Legislature; and

WHEREAS, First settled as a frontier trading post in 1839, the City of Corpus Christi is now ranked as the 64th largest city in the United States and the eighth largest city in Texas; happily, Corpus Christi has managed to attain this status without sacrificing the delightful quality of life that remains one of its chief attractions; and

WHEREAS, This vacationer's paradise, which is located near the Padre Island National Seashore, has long been one of Texas' most popular seacoast playground cities and the recreational center of South Texas; and

WHEREAS, The beautiful seaside city is the deepest port in Texas and the sixth busiest in the nation with ships from nearly every country in the world; its major cargoes are oil and refined products, chemicals, bulk materials, and agricultural products; vessels transporting cargo to and from all ports of the world moved more than 72.5 million tons of cargo through the port in 1992; and

WHEREAS, The Corpus Christi Bay Area's economic growth is studded with a bright forecast, creating new jobs faster than either state or national averages; and

WHEREAS, Corpus Christi and the Bay Area continue to attract residents as roughly 500,000 people have discovered this lovely and desirable region in which to make their home; and

WHEREAS, The city is doubly proud to have two excellent centers for higher education, Texas A&M University-Corpus Christi, formerly Corpus Christi State University, and Del Mar College; and

WHEREAS, Corpus Christi is a regional center for cultural activities; the Bayfront Arts and Science Park is the home for the Bayfront Plaza Convention Center, Art Museum of South Texas, Corpus Christi Museum, which houses the Spanish Shipwreck Collection, Harbor Playhouse, and the Corpus Christi Water Garden; the Texas Jazz Festival is one of the longest-running jazz festivals in the country; the Corpus Christi Greyhound Race Track gives tourists and South Texans a run for their entertainment dollar; and

WHEREAS, Adding to its numerous attractions is the Texas State Aquarium proclaimed by the 69th Session of the Texas Legislature as the "Official Aquarium of the State of Texas"; and

WHEREAS, The citizens of Corpus Christi fully support and welcome the porting of the U.S.S. Lexington in the city's warm waters; and

WHEREAS, The City of Corpus Christi is a finalist in the competition for the home-porting of "Los Barcos de Colon"; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 73rd Legislature, hereby congratulate the citizens of Corpus Christi and join with them in a splendid celebration of Corpus Christi Day; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the City of Corpus Christi in recognition of this splendid occasion from the Texas Senate.

The resolution was read.

On motion of Senator Brown and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Truan, the resolution was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Truan was recognized and introduced to the Senate the Mayor of Corpus Christi, Mary Rhodes; Chair of the Corpus Christi Chamber of Commerce, Fred Heldenfels IV; President of the Corpus Christi Chamber of Commerce, Betty Turner; Chair of the State/National Affairs Task Force, Corpus Christi Chamber of Commerce, Foster Edwards; President of Corpus Christi State University, Dr. Robert Furgason; President of Del Mar College, Buddy Venters; Chair of the Governmental Affairs Committee, Corpus Christi Chamber of Commerce, W. O. "Bill" Harrison; and Robert Van Borssum of the Port of Corpus Christi.

The Senate welcomed these guests, here in celebration of Corpus Christi Day.

(Senator Lucio in Chair)

SENATE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

S.C.R. 74 by Leedom Administration
Authorizing the erection of a monument in the State Cemetery in memory of Captain John J. Grumbles at no cost to the state.

S.B. 1391 by Harris of Tarrant State Affairs
Relating to the operation of driver training schools.

S.B. 1392 by Truan, Parker International Relations,
Trade, and Technology
Relating to establishment of the Texas Coastal Ocean Observation Network for collection of coastal management data.

S.B. 1393 by Shelley Natural Resources
Relating to county regulation of aggregate quarry and pit safety.

S.B. 1394 by Barrientos Education
Relating to criminal history information concerning an applicant for employment with a private elementary school; providing a penalty.

S.B. 1395 by Ratliff Finance
Relating to the right of a person leasing property to administrative and judicial review of a determination of the appraised value of the property for ad valorem taxation.

S.B. 1396 by Haley State Affairs
Relating to accessibility of vehicle accident reports.

S.B. 1397 by Montford Finance
Relating to certain constitutionally dedicated funds for certain public institutions of higher education and to the creation, composition, and financing of the higher education fund; making an appropriation.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read first time and referred to the committees indicated:

H.J.R. 23 to Committee on Criminal Justice.

H.B. 23 to Committee on Criminal Justice.

H.B. 27 to Committee on Criminal Justice.

H.B. 66 to Committee on Intergovernmental Relations.

H.B. 162 to Committee of the Whole Senate on Redistricting,
Ethics and Elections, Subcommittee on Elections and Ethics.

H.B. 187 to Committee on State Affairs.

H.B. 196 to Committee on Health and Human Services.

H.B. 273 to Committee on Economic Development.

H.B. 391 to Committee on State Affairs.

H.B. 597 to Committee on Health and Human Services.

H.B. 712 to Committee on Economic Development.

H.B. 723 to Committee on Education.
H.B. 835 to Committee on Finance.
H.B. 860 to Committee on State Affairs.
H.B. 1113 to Committee on Economic Development.
H.B. 1220 to Committee on Finance.
H.B. 1239 to Committee on Jurisprudence.
H.B. 1264 to Committee on Finance.
H.B. 1273 to Committee on Finance.
H.B. 1356 to Committee on Education.
H.B. 1592 to Committee on Health and Human Services.
H.B. 1652 to Committee on Natural Resources.
H.B. 1962 to Committee on Natural Resources.
H.B. 2009 to Committee on Natural Resources.
H.B. 2058 to Committee on Finance.
H.B. 2218 to Committee on Economic Development.
H.B. 2494 to Committee on Natural Resources.
H.B. 2498 to Committee on Health and Human Services.
H.B. 2499 to Committee on Economic Development.

**COMMITTEE SUBSTITUTE
HOUSE BILL 564 ON SECOND READING**

On motion of Senator Shelley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 564, Relating to write-in candidacy in certain water district elections.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 564 ON THIRD READING**

Senator Shelley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 564** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 819 ON SECOND READING**

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 819, Relating to hazardous duty pay for certain employees of the Texas Youth Commission.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 819 ON THIRD READING**

Senator Turner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 819 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 945 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 945, Relating to the safe operation on highways of certain vehicles; providing a penalty.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Amend **H.B. 945** as follows:

(1) In Section 2 of the bill, amend added Subsections (e) and (f) of Section 140A, Article 6701d, Vernon's Texas Civil Statutes, to read as follows:

(e) Except as provided by this subsection, Sections 141 and 142 of this Act apply to the inspection program established under this section. The fee for compulsory inspection of a commercial motor vehicle under the program established under this section is \$50. Of each fee, \$10 shall be paid to the department and shall, after the deduction of \$2.50 of each fee, which shall be deposited by the department in the general revenue fund, be deposited in the motor vehicle inspection fund for the purpose of paying the expense of administration of this law.

(f) The department may require each official inspection station to make an advance payment of \$10 for each certificate to be issued under this section, and the money so received shall, after the deduction of \$2.50 of each fee, which shall be deposited by the department in the general revenue fund, be deposited in the motor vehicle inspection fund. No further payment may be required of a station for a certificate under this section. Refunds for unissued certificates shall be made in the same manner as provided for other certificate refunds.

(2) Strike Section 4 of the bill and renumber subsequent sections accordingly.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 945 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 945** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1320 ON SECOND READING

On motion of Senator Shelley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1320, Relating to the authority of the State Seed and Plant Board to hold board meetings telephonically.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1320 ON THIRD READING

Senator Shelley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1320** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Truan.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

COMMITTEE SUBSTITUTE

HOUSE BILL 155 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 155, Relating to submission and publication of ad valorem tax rates.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 155 ON THIRD READING

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 155** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 536 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 536, Relating to the law governing consent by certain persons to the taking of breath or blood samples.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 536 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 536** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 154 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 154, Relating to the adoption of minimal safety standards for elevators, escalators, and related equipment, to the creation of the elevator advisory board, and to inspections of elevators, escalators, and related equipment; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 154 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 154** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 1084 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1084, Relating to the offense of overtaking and passing a school bus; providing a penalty.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 1084** as follows:

On page 1, line 53, between "~~of~~" and "~~six~~", insert "up to"

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 1084** as follows:

On page 1, line 58, strike "In lieu of imposing a fine" and insert "If a person fails to pay a previously assessed fine or costs on a conviction under this section, or is determined by the court to have insufficient resources or income to pay a fine or costs"

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1084 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1084** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1110 ON SECOND READING**

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1110, Relating to state regulation and assistance in the field of fire protection, including the powers and duties of the Texas Commission on Fire Protection; providing a penalty.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1110 ON THIRD READING**

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1110 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 728 ON SECOND READING**

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 728, Relating to the duties of the Texas Engineering Extension Service.

The bill was read second time.

Senator Turner offered the following amendment to the bill:

Amend C.S.S.B. 728 by striking Section 1 of the bill and substituting the following:

Section 1. Subsection (a), Section 86.16, Education Code, is amended to read as follows:

(a) The Texas A&M University shall conduct and maintain a firemen's training school through the Texas Engineering Extension Service as a unit of the university system in the manner deemed expedient and advisable by the system's board of regents. The Texas Engineering Extension Service shall serve as the recognized statewide fire and rescue training agency liaison to the National Fire Academy. In their capacity as the National Fire Academy liaison, the extension service shall distribute National Fire Academy student manuals on request to associations, fire departments, state agencies, and institutions of higher education which meet National Fire Academy qualifications.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Turner and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 728 ON THIRD READING**

Senator Turner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 728 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

ORDERED NOT PRINTED

On motion of Senator Montford and by unanimous consent, the House amendments to S.B. 5 were ordered not printed in the Senate Journal.

SENATE BILL 5 WITH HOUSE AMENDMENTS

Senator Montford called S.B. 5 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

The amendments were read.

Senator Montford moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 5 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Montford, Chair; Parker, Bivins, Ellis, and Zaffirini.

(Senator Montford in Chair)

COMMITTEE SUBSTITUTE

SENATE BILL 873 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 873, Relating to the regulation of massage therapy.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 873 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 873** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 819 ON SECOND READING**

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 819, Relating to financial assistance programs administered by the Veterans' Land Board.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 819 ON THIRD READING**

Senator Turner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 819** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 798 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 798, Relating to liability insurance and similar coverage for political subdivisions and for certain governmental officials and employees.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 798 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 798** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 847 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 847, Relating to accelerated educational programs for students in at-risk situations.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 847 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 847 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 1223 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1223, Relating to the merger, reorganization, or conversion of state or federal savings banks, state or federal savings and loan associations, and state banks.

The bill was read second time.

Senator Parker offered the following amendment to the bill:

Amend S.B. 1223 as follows:

At line 21, page 20, renumber Section 12 as Section 13 and insert a new Section 12 to read as follows:

SECTION 12. Amend Section 5, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), by adding new Sections 5.07 and 5.08 to read as follows:

Section 5.07. INVESTMENT WITHIN ASSOCIATION'S LOCAL SERVICE AREA. (a) Each association shall maintain in its portfolio at least 15 percent of its local service area deposits in the following categories of assets and investments:

(1) First and second lien residential mortgage loans or foreclosed residential mortgage loans originated from within the association's local service area;

(2) Home improvement loans;

(3) Interim residential construction loans;

(4) Mortgage-backed securities secured by loans from within the association's local service area; and

(5) Loans for community reinvestment purposes.

(b) The commissioner shall define an applicant's local service area at the time of its incorporation or upon application within 180 days of the effective date of this legislation. Unless otherwise agreed to by the commissioner and the applicant, the applicant may rely on this definition for the duration of the applicant's corporate existence as an association.

(c) The commissioner and the finance commission shall adopt rules to implement this section. The rules shall define the categories of liens and

investments described in Subsection (a) of this section. The commissioner may grant certain limited-term waivers from the requirements of Subsection (a) of this section if quality loans in the categories described in that subsection are not available from within the association's local service area.

Section 5.08. CONVERSION APPLICATION PROCESS. An application to convert an institution to a state savings bank shall be processed pursuant to the Texas Savings Bank Act.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Rosson asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

SENATE BILL 1223 ON THIRD READING

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 1223 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Rosson.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1. (Same as previous roll call)

SENATE BILL 1224 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1224, Relating to confidential information of or provided by the Banking Department of Texas.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1224 ON THIRD READING

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 1224 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 1340 ON SECOND READING

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1340, Relating to the use of electronic transfer methods for unemployment compensation insurance purposes.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1340 ON THIRD READING

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1340** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

SENATE BILL 392 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 392, Relating to minimum standards for medical procedures involving sedation or contrast media.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 392** as follows:

On page 1, line 32, insert the following after the word "anesthesiology":

"oral and maxillofacial surgery."

The amendment was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.S.B. 392** as follows:

On page 1, line 32, insert the following after the word "anesthesiology":

"plastic surgery."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 392 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 392 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1, Relating to the implementation of a statewide administrative driver's license revocation program; providing penalties.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 1 by striking all below the enacting clause and substituting the following:

SECTION 1. Title 116, Revised Statutes, is amended by adding Article 6687b-1 to read as follows:

Art. 6687b-1. Suspension Based on Administrative Determination

Sec. 1. In this article:

(1) "Alcohol concentration" has the meaning assigned by Article 67011-1(a), Revised Statutes.

(2) "Alcohol-related or drug-related enforcement contact" means a driver's license suspension, disqualification, or prohibition order under the laws of this state or another state following:

(A) conviction of an offense prohibiting the operation of a motor vehicle while intoxicated, while under the influence of alcohol, or while under the influence of a controlled substance;

(B) a refusal to submit to the taking of a blood or breath specimen following an arrest for an offense prohibiting the operation of a motor vehicle while intoxicated, while under the influence of alcohol, or while under the influence of a controlled substance; or

(C) an analysis of a blood or breath specimen showing an

alcohol concentration of a level specified in Article 67011-1(a), Revised Statutes, following an arrest for an offense prohibiting the operation of a motor vehicle while intoxicated.

(3) "Department" means the Department of Public Safety.

(4) "Director" means the director of the Department of Public Safety.

(5) "Driver's license" has the meaning assigned by Section 1, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

(6) "Public place" has the meaning assigned by Section 1.07(a), Penal Code.

Sec. 2. (a) If a person arrested for an offense under Article 67011-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, submits to the taking of a specimen of breath or blood and an analysis of the specimen shows the person had an alcohol concentration of a level specified in Article 67011-1(a), Revised Statutes, the arresting officer shall serve notice of driver's license suspension personally on the arrested person.

(b) If a person arrested for an offense under Article 67011-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, submits to the taking of a specimen of breath or blood and an analysis of the specimen is not returned to the arresting officer before the person is admitted to bail, released from custody, or committed to jail, the arresting officer shall attempt to serve notice of driver's license suspension personally on the arrested person.

(c) When a peace officer serves notice of suspension of a driver's license, the officer shall take possession of any driver's license issued by this state and held by the person arrested. The officer shall issue a temporary driving permit to the person. The temporary permit is valid for 40 days after the date of issuance. If, however, department records show that the driver's license is in a state of suspension or revocation or if the officer determines that the person is a resident without a license or permit to operate a motor vehicle in this state, a temporary driving permit authorized by this subsection may not be issued. If the arrested person is not a resident of this state and possesses a valid driver's license issued by another jurisdiction, the officer shall serve notice of suspension of the person's privilege to operate a motor vehicle in this state, but the officer may not take possession of the arrested person's driver's license. If the person was driving a commercial motor vehicle, as defined in Section 3, Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), a temporary driving permit that authorizes an individual to drive a commercial motor vehicle is not effective until 24 hours after the time of arrest.

(d) A copy of the notice of suspension, a copy of a temporary driver's permit, and a driver's license taken by the officer under this section shall be sent by the officer to the department before the end of the fifth business day after the date of the arrest.

(e) The department shall develop forms for notices of suspension and temporary driving permits that shall be used by all state and local law enforcement agencies.

Sec. 3. (a) A peace officer who arrests a person for an offense under Article 67011-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, shall, before the end of the fifth business day after the date of the arrest, send the department a sworn report of information relevant to the arrest, if analysis of the specimen showed an alcohol concentration of a level specified in Article 67011-1(a), Revised Statutes. The report shall identify the arrested person, state the officer's grounds for believing the person committed the offense, give the analysis of the specimen, and include a copy of the criminal complaint filed in the case.

(b) A report required by this section shall be made on a form approved by the department and in the manner specified by the department.

Sec. 4. (a) On receipt of a report of a peace officer under this article, if the officer did not serve notice of suspension of driver's license at the time of obtaining the results of the analysis of the blood or breath specimen, the department, in accordance with Section 5 of this article, shall make the determination and issue notice of driver's license suspension if required.

(b) The department shall mail, by certified mail, notice of suspension to the address of the person, as shown by the records of the department, and to the address given in the peace officer's report, if different. Notice is presumed received on the third day after the day it is mailed.

(c) A notice of suspension must clearly state the reason and statutory grounds for suspension, the effective date of suspension, the right of the person to a hearing, how to request a hearing, and the time limit within which a request for a hearing must be made. If the department does not suspend the person's driver's license, the department shall notify the person of its determination and shall rescind any notice of suspension served on the person.

Sec. 5. (a) The department shall suspend the driver's license of a person if it determines that the person had an alcohol concentration of a level specified in Article 67011-1(a), Revised Statutes, while driving or operating a motor vehicle in a public place.

(b) The department may not suspend the driver's license of a person if the analysis of the person's breath or blood, submitted at the request of a peace officer, determined that the person had an alcohol concentration of a level below that specified in Article 67011-1(a), Revised Statutes, at the time of taking the specimen.

(c) The department shall make the determination based on the report of a peace officer submitted under Section 3 of this article. The determination is final, unless a hearing is requested under Section 7 of this article.

(d) The determination of the department is a civil matter, is independent of and is not an estoppel as to any matter in issue in an adjudication of a criminal charge arising from the occurrence that is the basis for the suspension, and does not preclude litigation of the same or similar facts in a criminal prosecution. The disposition of a criminal charge does not affect a driver's license suspension under this article and is not an estoppel as to any matter in issue in a driver's license suspension proceeding under this article.

Sec. 6. (a) A driver's license suspension under this article takes effect on the 40th day after the date on which:

(1) the person received notice from the officer under Section 2 of this article; or

(2) the person is presumed to have received notice of suspension from the department by mail under Section 4 of this article.

(b) A period of suspension under this article is:

(1) 90 days if the person's driving record shows no prior alcohol-related or drug-related enforcement contact during the five years immediately preceding the date of the person's arrest; or

(2) one year if the person's driving record shows one or more alcohol-related or drug-related enforcement contacts during the five years immediately preceding the date of the person's arrest.

(c) If a person's driver's license is suspended under this article and the person is also convicted of an offense under Article 67011-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, arising out of the same occurrence, the license suspensions required by this article and by Section 24, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), or Section 25, Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), shall all be imposed.

Sec. 7. (a) A person who receives notice of suspension under this article may request a hearing in writing, including facsimile transmissions, or by other manner prescribed by the department. A request must be received by the department at its headquarters in Austin not later than the 15th day after the date notice of suspension was given under Section 2 of this article or the 15th day after the date the person is presumed to have received notice by mail under Section 4 of this article. The department shall schedule the hearing. The hearing shall be held before the effective date of the suspension. A request for a hearing stays suspension of driver's license until the date of the final decision of the administrative law judge. If the person's driver's license was taken by a peace officer under Section 2 of this article, the department shall notify the person before the expiration of the temporary permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended. For the purpose of a hearing, jurisdiction is vested in an administrative law judge employed by the chief administrative law judge of the State Office of Administrative Hearings.

(b) A hearing shall be held at a location designated by the State Office of Administrative Hearings in the county in which the person was alleged to have committed the offense for which the person was arrested or at a site designated by the State Office of Administrative Hearings no more than 75 miles from the county seat of the county of the arrest, except as provided by Subsection (c) of this section. A hearing shall be held not less than 10 days after the date of notification to the person, unless the parties agree to waive this requirement. The State Office of Administrative Hearings shall provide for the stenographic or electronic recording of all hearings. The issue at a hearing is whether, by a preponderance of

evidence, the person had an alcohol concentration of a level specified in Article 67011-1(a), Revised Statutes, while driving or operating a motor vehicle in a public place. If the administrative law judge finds in the affirmative as to this issue, the suspension order shall be sustained. If the administrative law judge does not find in the affirmative as to this issue, the department shall reinstate any license, permit, or privilege to operate a motor vehicle and shall rescind an order prohibiting the issuance of a license or permit.

(c) With the consent of the person and the department, the administrative law judge may conduct a hearing under Subsection (b) of this section by telephone conference call.

(d) The administrative law judge may not make an affirmative finding under this section if the analysis of the person's breath or blood, submitted at the request of a peace officer, determined that the person had an alcohol concentration of a level below that specified in Article 67011-1(a), Revised Statutes, at the time of taking the specimen.

(e) A person who requests a hearing and fails to appear, without just cause, waives the right to a hearing, and the department's determination is final.

(f) Notwithstanding Subsection (a) of this section, if no later than five days before the date of a scheduled hearing the department has received a request for a continuance from the person who has requested a hearing, the department shall reschedule the hearing to a date no sooner than the fifth day after the date on which the department received the request for the continuance, unless otherwise agreed by both parties. A continuance under this section stays a suspension of a driver's license until the date of the final decision of the administrative law judge. If the person's driver's license was taken by a peace officer under Section 2 of this article, the department shall notify the person before the expiration of the temporary permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended. A person who has requested a hearing under this article may obtain only one continuance under this subsection.

(g) A person whose driver's license has been suspended after a hearing under this section may appeal the suspension by filing within 30 days after the date that the administrative law judge's final determination is issued a petition in a county court at law in the county where the person was arrested or, if there is no county court at law in the county, in the county court of the county. If the county judge is not a licensed attorney, the county judge shall transfer the case to a district court for the county on the motion of either party or of the judge.

(h) Filing an appeal petition does not stay a suspension. On appeal, review is on the record certified by the State Office of Administrative Hearings with no additional testimony except as provided by Subsection (j) of this section. Review shall be based on the substantial evidence rule.

(i) A person who appeals under this section must send by certified mail a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to both the department and the State Office of

Administrative Hearings at their headquarters in Austin. The department's right to appeal is limited to issues of law. There is no right to a jury trial in an appeal under this section. A district or county attorney may represent the department in an appeal.

(j) On appeal, any party may apply to the court for leave to present additional evidence, and the court, if satisfied that the additional information is material and that there were good reasons for the failure to present it in the hearing before an administrative law judge, may order that the additional evidence be taken before an administrative law judge on conditions determined by the court. An administrative law judge may modify a prior determination as to whether the person had an alcohol concentration of a level specified in Article 67011-1(a), Revised Statutes, by reason of the additional evidence. The administrative law judge shall file the evidence and any modifications. A remand under this subsection does not stay the suspension of a driver's license.

(k) To obtain a transcript of an administrative hearing, a party who appeals the determination must apply to the State Office of Administrative Hearings. On payment to the State Office of Administrative Hearings of a fee not to exceed the actual cost of preparing the transcript, that agency shall promptly furnish both parties with the transcript.

(l) A suspension under this article may not be probated.

(m) In a proceeding under this article, the reliability of an instrument used to take or analyze a specimen of a person's breath to determine alcohol concentration and the validity of the results of the analysis may be attested to by affidavit from the certified breath test technical supervisor who is responsible for maintaining and directing the operation of breath test instruments in compliance with the rules of the department. An affidavit submitted under this subsection must contain statements on the reliability of the instrument and the analytical results and on compliance with state law in the administration of the program. An affidavit of an expert witness contesting the reliability of the instrument or the results is admissible. Except as provided by Subsection (n) of this section, the affidavit may be submitted in lieu of an appearance at the hearing by the breath test operator, breath test technical supervisor, or expert witness.

(n) Notwithstanding Subsection (m) of this section, if no later than five days before the date of a scheduled hearing the department receives from the person who has requested the hearing written notice, including facsimile transmissions, requesting the presence at the hearing of the person who took the specimen of the person's breath to determine alcohol concentration, or the certified breath test technical supervisor who was responsible for maintaining and directing the operation of the breath test instrument used to analyze the specimen of the person's breath, or both, each requested person must appear at the hearing. The department may reschedule a hearing once at least 48 hours before the time of the hearing if a person requested under this section is unavailable. In addition, the department may reschedule the hearing on a showing of good cause if the requested person is not available at the time of the hearing. A suspension order may not go into effect pending a final decision of the administrative law judge as a result of a continuance granted under this subsection. If

any person whose presence is timely requested under this subsection fails to appear at the hearing without a showing of good cause, an affidavit from that witness is inadmissible.

(o) A person whose driver's license is suspended under this section is subject to Section 34, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

(p) The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) applies to proceedings under this article to the extent not inconsistent with this article. The State Office of Administrative Hearings shall adopt rules that may conflict with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) as necessary to expedite the hearings process within the time limits required by this article and applicable federal funding guidelines. Notice required by this section to be given by the department may be given telephonically or by other electronic means, and written notice shall follow if such means are used. Notice by mail is presumed received on the third day after the date it is deposited with the United States Postal Service. The decision of the administrative law judge is final when issued and signed and immediately appealable without the requirement of a motion for rehearing.

Sec. 8. (a) A driver's license suspended under this article may not be reinstated and another driver's license may not be issued until the person whose driver's license has been suspended pays to the department a fee of \$100 in addition to any other fee required by law.

(b) If a suspension under this article is rescinded by the department, an administrative law judge, or a court, payment of a reinstatement fee is not required.

(c) Fees paid under this section shall be deposited in the state treasury to the credit of the operator's and chauffeur's license fund and may be appropriated only to the department to administer this article and the driver's license suspension provisions of Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes).

Sec. 9. The department and the State Office of Administrative Hearings shall adopt rules to administer this article.

SECTION 2. Subsection (e), Section 22, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The judge or officer holding a hearing under Subsection (a), (b), or (d) of this section, or the court trying an appeal under Section 31 of this Act, on determining that the License shall be suspended or revoked, may, when it appears to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, recommend that the revocation or suspension be probated on terms and conditions deemed by the officer or judge to be necessary or proper. The report to the department of the results of the hearing must include the terms and conditions of such probation. When probation is recommended by the judge or officer presiding at a hearing, the department shall probate the suspension or revocation. ~~[This~~

~~subsection does not apply to an appeal under Section 31 of this Act for suspension of a driver's license or denial of operating privileges under Section 2, Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701I-5, Vernon's Texas Civil Statutes).]~~

SECTION 3. Subsection (f), Section 23A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), as amended by Chapters 473 and 1127, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

(f) The judge hearing the petition shall enter an order either finding that no essential need exists for the operation of a motor vehicle or enter an order finding an essential need for operating a motor vehicle. In the event the judge enters the order finding an essential need, he shall also, as part of the order, determine the actual need of the petitioner in operating a motor vehicle. The order shall require the petitioner to give proof of a valid policy of automobile liability insurance in accordance with the Texas Motor Vehicle Safety-Responsibility Act[~~as amended~~] (Article 6701b, Vernon's Texas Civil Statutes). If the person's license has been suspended following a conviction under Article 6701I-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, but only on conviction of a second or subsequent offense under this article or section, the order may restrict the person to the operation of a motor vehicle equipped with a device that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the restricted operator. The defendant shall obtain the device at his own cost. Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of the person's employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of such driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity that owns the vehicle is owned or controlled by the person whose driving privilege has been restricted. The order shall be definite as to hours of the day, days of the week, specific reasons for travel, and areas or routes of travel to be permitted, except that the petitioner shall not be allowed to operate a motor vehicle more than four (4) hours in any twenty-four (24) consecutive hours. On a proper showing of necessity, however, the court may waive the four-hour restriction and allow the petitioner to operate a motor vehicle for any period determined by the court that does not exceed twelve (12) hours in any twenty-four (24) consecutive hours. An order may not be effective before the 30th day after the effective date of a suspension under Article 6687b-1, Revised Statutes, or a suspension for a conviction under Article 6701I-1(b), Revised Statutes. If the person's driver's license has been suspended as a result of an alcohol-related or drug-related enforcement contact, as defined in Section 1, Article 6687b-1, Revised Statutes, in the five years immediately preceding the date of the person's arrest, the order may not be effective before one year after the effective date of the suspension. An order may not be effective before one year after the effective date of a suspension for an

offense under Article 67011-1(d) or (e), Revised Statutes, or under Section 19.05(a)(2), Penal Code. An order may not be effective before the 90th day after the effective date of a suspension under Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes). An order entered by the court shall extend until the end of [for] the period of the [original] suspension. A certified copy of the petition and the court order setting out the judge's finding and the restrictions shall be forwarded to the Department. The petitioner may use a copy of the court order as a restricted license for thirty (30) days after the date the order is effective [entered]. The Department of Public Safety shall promulgate rules and regulations for the approval of models and classes of devices used under this subsection and Section 25(a) of this Act. The Department by rule shall establish standards for the calibration and maintenance of devices, but the calibration and maintenance of each individual device is the responsibility of the manufacturer of that device. If the Department approves a device, the Department shall notify the manufacturer in writing of that fact. Written notice from the Department to a manufacturer approving a device is admissible in any civil or criminal proceeding in this state. The manufacturer shall reimburse the Department for any cost incurred by the Department in approving a device under this subsection. The Department may not be held liable in a civil or criminal proceeding arising out of the use of a device approved under this subsection.

SECTION 4. Section 31, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 31. RIGHT OF APPEAL TO COURTS. (a) Any person whose driver's license has been suspended or revoked after an administrative hearing under Section 22(a) of this Act, any person whose license suspension has been probated under Section 22(e) of this Act, and any person denied a license or whose driver's license has been cancelled by the Department, except where such cancellation, suspension, or revocation is automatic under the provisions of this Act, shall have the right to file a petition within thirty (30) days after the date the order of the Department was entered for a hearing in the matter in the County Court at Law in the county wherein such person shall reside, or if there be no County Court at Law therein, then in the county court of said county, and such court is hereby vested with jurisdiction, and it shall be its duty to set the matter for hearing upon thirty (30) days written notice to the Department, and thereupon to take testimony and examine into the facts of the case, and to determine whether the petitioner is entitled to a license or is subject to suspension, cancellation, denial, or revocation of license under the provisions of this Act. A person who appeals under this section must send a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to the Department by certified mail. An order of the Department is binding on the person to whom it pertains unless the person appeals the order as provided by this section or unless the person establishes that a hearing was timely requested, as provided by Section 24(g) of this Act ~~for Section 2(f), Chapter 434, Acts of the 61st~~

~~Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes)~~], but was not held. The Department may appeal the ruling of the judge or officer presiding at the hearing by filing a petition in the manner provided by this section.

(b) The trial on appeal as herein provided for shall be a trial de novo and the licensee shall have the right of trial by jury.

(c) The filing of a petition of appeal as provided by this section shall abate an order of suspension, probated suspension, revocation, or cancellation until the trial herein provided for shall have been consummated and final judgment thereon is had.

SECTION 5. Subsections (a) and (d), Section 34, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) A person commits an offense if the person operates a motor vehicle on a highway:

(1) after the person's driver's license has been cancelled under this Act and the person does not have a valid license that was subsequently issued under this Act;

(2) during a period that a suspension or revocation, imposed under this Act, ~~or~~ Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), or Article 6687b-1, Revised Statutes, of the person's driver's license or privilege is in effect; or

(3) while the person's driver's license is expired, if the license expired during a period of suspension imposed under this Act, ~~or~~ Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), or Article 6687b-1, Revised Statutes.

(d) Except as provided by Subsection (c) of this section, it is an affirmative defense to prosecution of an offense, other than an offense listed in Section 24(a) of this Act, that the person had not received actual notice of a suspension, revocation, cancellation, or prohibition order concerning the person's driver's license or privilege to operate a motor vehicle. For purposes of this section, actual notice shall be presumed if the notice was mailed according to procedures provided by law ~~[sent by certified mail to the last known address of the person as shown by the records of the Department]~~.

SECTION 6. Subsection (1), Section 25, Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), is amended to read as follows:

(1) A person who is subject to disqualification under this article may also have the person's ~~his~~ driver's license suspended, revoked, canceled, or denied under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes); Article 6687b-1, Revised Statutes; ~~Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes);~~ ~~or the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes)~~, if the conduct providing grounds for disqualification under this article also constitutes a ground for suspension, revocation, cancellation, or denial under any of those laws.

SECTION 7. Subsections (e) and (f), Section 27, Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), are amended to read as follows:

(e) On receipt of the sworn report of a peace officer submitted under this section, the department shall disqualify the driver from driving a commercial motor vehicle under Section 25 of this article. The procedure for notice and disqualification under this section is that specified in Section 2[(f)], Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), or in Article 6687b-1, Revised Statutes, except that the department shall disqualify the person from driving a commercial motor vehicle for the period of time authorized by this article if, in a hearing held under this section, the court finds that:

(1) probable cause existed that the person was driving a commercial motor vehicle while having alcohol, a controlled substance, or drug in the person's system;

(2) the person was offered an opportunity to give a specimen under the provisions of this article; and

(3) the person either submitted a specimen that disclosed an alcohol concentration of 0.04 or more or refused to submit a specimen.

(f) An appeal of a disqualification under this section is subject to Sections 7(g)-(k), Article 6687b-1, Revised Statutes [~~Section 31, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes)~~]. A disqualification under this section may not be probated.

SECTION 8. Subsections (d) and (e), Article 67011-1, Revised Statutes, are amended to read as follows:

(d) If it is shown on the trial of an offense under this article that the person has previously been convicted one time of an offense under this article, the offense is punishable by:

(1) a fine of not less than \$300 or more than \$2,000; and

(2) confinement in jail for a term of not less than 15 days or more than two years, of which not less than 48 hours must be served consecutively.

(e) If it is shown on the trial of an offense under this article that the person has previously been convicted two or more times of an offense under this article, the offense is punishable by:

(1) a fine of not less than \$500 or more than \$2,000; and

(2) confinement in jail for a term of not less than 30 days or more than two years, of which not less than 48 hours must be served consecutively, or imprisonment in the state penitentiary for a term of not less than 60 days or more than five years.

SECTION 9. Section 2, Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. (a) Except as provided by Subsection (i) of Section 3 of this Act, if a person under arrest refuses, upon the request of a peace officer, to give a specimen designated by the peace officer as provided in Section 1, none shall be taken.

(b) Before requesting a person to give a specimen, the officer shall inform the person orally and in writing that if the person refuses to give the specimen, that refusal may be admissible in a subsequent prosecution, and that the person's license, permit, or privilege to operate a motor vehicle will be automatically suspended for 90 days, or one year for certain repeat offenders [after the date of adjournment of the hearing provided for in Subsection (f) of this section], whether or not the person is subsequently prosecuted as a result of the arrest. If the officer determines that the person is a resident without a license or permit to operate a motor vehicle in this state, the officer shall inform the person that the [Texas] Department of Public Safety shall deny to the person the issuance of a license or permit for a period of 90 days, or one year for certain repeat offenders [after the date of adjournment of the hearing provided for in Subsection (f) of this section], whether or not the person is subsequently prosecuted as a result of the arrest. The officer shall inform the person that the person has a right to a hearing on suspension or denial if, not later than the 15th [20th] day after the date on which the person receives notice of suspension or denial under Subsection (d) of this section or the person is presumed to have received notice of suspension or denial by mail under Subsection (i) of this section [is received], the department receives, at its headquarters in Austin, a written demand, including facsimile transmissions, or a demand in another form prescribed by the department, that the hearing be held.

(c) The officer shall provide the person with a written statement containing the information required by Subsection (b) of this section. If the person refuses the request of the officer to give a specimen, the officer shall request the person to sign a statement that the officer requested that he give a specimen, that he was informed of the consequences of not giving a specimen, and that he refused to give a specimen.

(d) If the person refuses to give a specimen, whether the refusal was express or the result of an intentional failure of the person to give a specimen as designated by the peace officer, the officer before whom the refusal was made shall serve notice of driver's license suspension or denial to the person and [immediately] make a written report of the refusal to the Director of the [Texas] Department of Public Safety.

(e) When a peace officer serves notice of suspension or denial of driver's license, the officer shall take possession of any driver's license issued by this state and held by the person arrested. The officer shall issue a temporary driving permit to the person. A temporary permit is valid for 40 days after the date of issuance. If, however, Department of Public Safety records show that the driver's license, permit, or privilege to operate a motor vehicle is in a state of suspension or revocation, a temporary permit authorized by this subsection may not be issued. If the arrested person is not a resident of this state and possesses a valid driver's license issued by another jurisdiction, the officer shall serve notice of suspension of the person's privilege to operate a motor vehicle in this state, but the officer may not take possession of the arrested person's driver's license. If the person was driving a commercial motor vehicle, as defined in Section 3, Texas Commercial Driver's License Act (Article

6687b-2. Revised Statutes). a temporary driving permit that authorizes an individual to drive a commercial motor vehicle is not effective until 24 hours after the time of arrest.

(f) The director shall approve the form of the report. The report must show the grounds for the officer's belief that the person had been operating a motor vehicle while intoxicated. The report must also show that the person refused to give a specimen, as evidenced by:

- (1) a written refusal to give a specimen, signed by the person; or
- (2) a statement signed by the officer stating that the person refused to give a specimen and also refused to sign the statement requested by the officer under Subsection (c) of this section [article].

(g) A copy of the notice of suspension or denial, a copy of a temporary driving permit, a driver's license taken by the officer under this section, and the refusal report under Subsection (f) of this section shall be forwarded by the officer to the department before the end of the fifth business day after the date of the arrest.

(h) The department shall develop forms for notices of suspension or denial and temporary driving permits that shall be used by all state and local law enforcement agencies.

(i) On receipt of a report of a peace officer under this section, if the officer did not serve notice of suspension or denial of driver's license at the time of refusal to give a specimen, the department shall issue notice to the person of driver's license suspension or prohibition. The department shall mail notice of suspension or prohibition, by certified mail, to the address of the person, as shown by the records of the department, and to the address given in the peace officer's report, if different. Notice is presumed received on the third day after the date it is mailed. A notice of suspension or prohibition must clearly state the reason and statutory grounds for and the effective date of the action, the right of the person to a hearing, how to request a hearing, and the period within which a request for a hearing must be received by the department.

(j) If a person under arrest refuses on the request of a peace officer to give a specimen designated by the peace officer as provided in this Act, [(f) When the director receives the report, the director shall suspend] the person's license, permit, or [nonresident] operating privilege shall be suspended for 90 days, or, if the person is a resident without a permit to operate a motor vehicle in this state, the department shall issue an order prohibiting the person from obtaining a license or permit[;] for 90 days [effective 28 days after the date the person receives notice by certified mail or 31 days after the date the director sends notice by certified mail, if the person has not accepted delivery of the notice]. The period of suspension or prohibition under this Act is one year if the person's driving record shows one or more previous alcohol-related or drug-related enforcement contacts during the five years immediately preceding the date of the person's arrest. A suspension or prohibition under this section is effective on the 40th day after the date on which the person receives from an arresting officer notice of suspension or denial under Subsection (d) of this section or the 40th day after the date on which the person is considered to have received, from the department, notice of suspension or prohibition by mail under Subsection (i) of this section.

(k) If, not later than the 15th ~~[20th]~~ day after the date on which the person receives notice of suspension or prohibition under Subsection (d) of this section or is presumed to have received notice by mail under Subsection (i) of this section ~~[by certified mail or the 23rd day after the date the director sent notice by certified mail, if the person has not accepted delivery of the notice]~~, the department receives, at its headquarters in Austin, in writing or by another manner prescribed by the department, a ~~[written]~~ demand that a hearing be held, the State Office of Administrative Hearings ~~[department]~~ shall hold a hearing before the effective date of the notice of suspension or prohibition. A request for a hearing stays the suspension of a driver's license or the prohibition on obtaining a driver's license until the date of the final decision of the administrative law judge. If the person's driver's license was taken by a peace officer under Subsection (e) of this section, the department shall notify the person before the expiration of the temporary permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended~~[-not later than the 10th day after the day of receipt of the demand, request a court to set the hearing for the earliest possible date]~~. For the purpose of a hearing, jurisdiction is vested in an administrative law judge employed by the chief administrative law judge of the State Office of Administrative Hearings. A hearing shall be held at a location designated by the State Office of Administrative Hearings in the county in which the person was alleged to have committed the offense for which the person was arrested or at a site designated by the State Office of Administrative Hearings no more than 75 miles from the county seat of the county of the arrest, except as provided by Subsection (l) of this section. A hearing shall be held not earlier than 10 days after the date of notification to the person, unless the parties agree to waive this requirement. The State Office of Administrative Hearings shall provide for the stenographic or electronic recording of all hearings.

(l) With the consent of the person and the department, the administrative law judge may conduct a hearing under Subsection (b) of this section by telephone conference call.

(m) The issues at a hearing are:

(1) whether probable cause existed that the person was driving or in actual physical control of a motor vehicle on the highway or on a public beach while intoxicated;

(2) whether the person was placed under arrest by the officer and was offered an opportunity to give a specimen under this Act; and

(3) whether the person refused to give a specimen on request of the officer.

(n) If the administrative law judge finds in the affirmative as to all three issues, the suspension order shall be sustained ~~[The hearing shall be set in the same manner as a hearing under Section 22(a), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes)].~~ If, upon such hearing the court finds (1) that probable cause existed that such person was driving or in actual physical control of a motor vehicle on the highway or upon a public beach

~~while intoxicated, (2) that the person was placed under arrest by the officer and was offered an opportunity to give a specimen under the provisions of this Act, and (3) that such person refused to give a specimen upon request of the officer, then the Director of the Texas Department of Public Safety shall suspend the person's license or permit to drive, or any nonresident operating privilege for a period of 90 days, as ordered by the court]. If the person is a resident without a license or permit to operate a motor vehicle in this State, the [Texas] Department of Public Safety shall continue to deny to the person the issuance of a license or permit for the applicable period provided by this Act [90 days]. If the administrative law judge does not find in the affirmative as to all three issues [(g) If, after the hearing, the court finds in the negative one of the issues required by Subsection (f) of this section], the department [director] shall reinstate any license, permit, or privilege to operate a motor vehicle and shall rescind any order prohibiting the issuance of a license or permit on the basis of the person's refusal to give a specimen under Subsection (d) of this section.~~

(o) A suspension under this Act may not be probated.

(p) A person who requests a hearing and fails to appear without good cause waives the right to a hearing, and the department's determination is final.

(q) Notwithstanding the provisions of Subsection (k) of this section, if no later than five days before the date of a scheduled hearing the department has received a request for a continuance from the person who has requested a hearing, the department shall reschedule the hearing to a date no sooner than the fifth day after the date on which the department received the request for the continuance, unless otherwise agreed by both parties. A continuance under this section stays a suspension of a driver's license until the date of the final decision of the administrative law judge. If the person's driver's license was taken by a peace officer under Subsection (e) of this section, the department shall notify the person before the expiration of the temporary permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended. A person who has requested a hearing under this article may obtain only one continuance under this subsection.

(r) If a hearing under Subsection (k) of this section is not requested, the department's suspension or prohibition is final, and the person has no right to appeal the suspension or prohibition.

(s) The determination of the department or administrative law judge is a civil matter, is independent of and is not an estoppel as to any matter in issue in an adjudication of a criminal charge arising from the occurrence that is the basis for the suspension or prohibition, and does not preclude litigation of the same or similar facts in a criminal prosecution. The disposition of a criminal charge does not affect a driver's license suspension or prohibition under this Act and is not an estoppel as to any matter in issue in a suspension or prohibition proceeding under this Act.

(t) Administrative hearings under this section are governed by

Subsections (f)-(k) and Subsection (p) of Section 7, Article 6687b-1, Revised Statutes.

(u) ~~[(h)]~~ A written report submitted by an officer under Subsection (d) of this section ~~[article]~~ is a governmental record for the purposes of Section 37.10, Penal Code.

(v) ~~[(i)]~~ A person whose license, permit, or privilege is suspended under this section, or who is the subject of a prohibition order issued under this section, is subject to Section 34, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

(w)(1) A driver's license suspended under this Act may not be reinstated or a new license issued until the person whose driver's license has been suspended pays to the department a fee of \$100 in addition to any other fee required by law. A person subject to a prohibition order issued under this Act may not obtain a driver's license after the period of prohibition has ended unless the person pays to the department a fee of \$100 in addition to any other fee required by law.

(2) If a suspension or prohibition under this Act is rescinded by the department, an administrative law judge, or a court under this Act, payment of a fee under this subsection is not required for reinstatement or issuance of a driver's license.

(3) Fees paid under this subsection shall be deposited in the state treasury to the credit of the operator's and chauffeur's license fund and may be appropriated only to the department to administer this Act and Article 6687b-1, Revised Statutes.

SECTION 10. Subsection (j), Section 3, Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), is amended by adding Subdivision (8) to read as follows:

(8) "Alcohol-related or drug-related enforcement contact" has the meaning assigned by Section 1, Article 6687b-1, Revised Statutes.

SECTION 11. Section 4, Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. Appeals from all actions of the department, following an administrative hearing under this Act, in suspending, denying, or refusing to issue a license shall be governed by [Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended -] Article 6687b-1 [6687b], Revised [Vernon's Texas Civil] Statutes[.]

SECTION 12. Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), is amended by adding Section 4A to read as follows:

Sec. 4A. The Department of Public Safety and the State Office of Administrative Hearings shall adopt rules to administer this Act.

SECTION 13. Subsection (a), Section 21, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) This Act does not apply to suspensions, revocations, cancellations, denials, or disqualifications of driver's licenses or commercial driver's licenses as authorized in Article IV, Chapter 173, Acts of the 47th

Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes), the Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), [~~Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701i-5, Vernon's Texas Civil Statutes);~~] or Section 13 [6f], Article 42.12, Code of Criminal Procedure[~~, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985~~].

SECTION 14. Subsection (a), Section 13, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) A court granting probation to a defendant convicted of an offense under Article 6701i-1, Revised Statutes, and punished under Subsection (d), (e), or (f) of that article shall require as a condition of probation that the defendant submit to:

(1) 72 hours of detention in a jail if the defendant was convicted under Subsection (d) of Article 6701i-1, Revised Statutes, of which not less than 48 hours must be served consecutively, except that in lieu of the requirement of 48 consecutive hours of detention, the court may require not less than 80 hours of community service; 10 days of detention in a jail if the defendant was convicted under Subsection (e) of Article 6701i-1, Revised Statutes, of which not less than 48 hours must be served consecutively, except that in lieu of the requirement of 48 consecutive hours of detention, the court may require not less than 160 hours of community service; or 30 days of detention in a jail if the defendant was convicted under Subsection (f) of Article 6701i-1, Revised Statutes, of which not less than 48 hours must be served consecutively, except that in lieu of the requirement of 48 consecutive hours of detention, the court may require not less than 360 hours of community service; and

(2) an evaluation by a probation officer or by a person, program, or facility approved by the Texas Commission on Alcohol and Drug Abuse for the purpose of having the facility prescribe and carry out a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition.

SECTION 15. Chapter 55, Code of Criminal Procedure, is amended by adding Article 55.06 to read as follows:

Art. 55.06. License Suspensions and Revocations. A person may not use the provisions of this chapter to expunge records relating to the suspension or revocation of a driver's license, permit, or privilege to operate a motor vehicle.

SECTION 16. The Department of Public Safety shall enter into a contract with the State Office of Administrative Hearings to carry out the provisions of this Act. The interagency contract shall set forth the procedures necessary for the orderly scheduling of hearings and other matters requiring cooperation. The agreement shall also provide for an interagency transfer of funds to the State Office of Administrative Hearings necessary to cover the cost to the State Office of Administrative Hearings in carrying out its responsibilities. This transfer of funds may be made only from amounts appropriate to the department.

SECTION 17. (a) The changes in law made by this Act for the

punishment for an offense under Article 67011-1, Revised Statutes, and for the suspension of driver's licenses following a conviction for an offense under that article or Section 19.05, Penal Code, apply only to an offense committed on or after the effective date of this Act. The changes in law relating to the administrative suspension of a driver's license and to a suspension for refusal to give a specimen of breath or blood apply only to a person who is arrested on or after the effective date of this Act.

(b) For the purposes of this Act, an offense was committed before the effective date of this Act if any element of the offense occurred before the effective date of this Act. The suspension of a driver's license for a reason other than the conviction of an offense is controlled by the law in effect when the action that is the basis for the suspension occurred. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 18. The Department of Public Safety shall deliver an annual report to the legislature relating to the operation and administration of Article 6687b-1, Revised Statutes, as added by this Act. The report shall be separate from any other report of the Department of Public Safety to the legislature. The report shall include statistical information relating to the number of driver's licenses suspended under Article 6687b-1, Revised Statutes, the number of administrative hearings requested by persons whose licenses were suspended, the number of administrative hearings conducted under Article 6687b-1, Revised Statutes, by the State Office of Administrative Hearings and the results of those hearings, the number of judicial appeals of hearings conducted under Article 6687b-1, Revised Statutes, and the results of those appeals, the number of requests for testimony of breath test operators and breath test supervisors and the outcomes of hearings, the number of continuances requested by persons subject to license suspension hearings, the amount of federal funds received by the state as a result of this program, together with recommendations concerning the operation or administration of Article 6687b-1, Revised Statutes, and other information that demonstrates whether the purposes of this Act are being achieved.

SECTION 19. This Act takes effect January 1, 1995.

SECTION 20. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Parker offered the following amendment to the amendment:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to C.S.S.B. 1 as follows:

(1) In SECTION 1, Section 1(2) of added Article 6687b-1 (Floor Amendment No. 1, page 1, line 11), after "disqualification," insert "forfeiture of a vehicle."

(2) In SECTION 1, Section 1 of added Article 6687b-1 (Floor Amendment No. 1, page 2, line 11), add the following after Subdivision (6):

(7) "Vehicle" means the motor vehicle being driven or operated at the time of the commission of an offense under Article 67011-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, regardless of the ownership of the motor vehicle.

(3) In SECTION 1, Section 2(c) of added Article 6687b-1, insert at the end of the first sentence (Floor Amendment No. 1, page 3, line 2), "The peace officer shall also take possession of the vehicle."

(4) Wherever the phrase "drivers license suspension" or "suspension of a driver's license" occurs, insert the phrase "and forfeiture of the vehicle".

(5) Amend the caption as appropriate.

The amendment to the amendment was read.

On motion of Senator Parker and by unanimous consent, the amendment to the amendment was withdrawn.

Question recurring on the adoption of Floor Amendment No. 1, the amendment was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 564 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 564, Relating to the licensing of wholesale device distributors under the Texas Food, Drug, and Cosmetic Act; providing civil and administrative penalties.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 564 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 564** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 588 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 588, Relating to the designation of responsibility for the transporting of juvenile offenders.

The bill was read second time.

Senator Carriker offered the following committee amendment to the bill:

Amend **S.B. 588** by striking all language on line 17 of page one of the bill and substitute the following:

(c) Upon adoption of an order by the juvenile board and approval of the juvenile board's order by record vote of the commissioners court, it

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Carriker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 588 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 588** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

SENATE BILL 631 ON SECOND READING

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 631, Relating to the authority of a municipality to provide for the repair and assessment of repairs of bulkheads or other structures.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 631 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 631 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

GUEST PRESENTED

The Presiding Officer, Senator Montford in Chair, introduced to the Senate Representative Ken Yarbrough of Harris County.

The Senate welcomed Representative Yarbrough.

**COMMITTEE SUBSTITUTE
SENATE BILL 737 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 737, Relating to the use of alternative fuels.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

Amend C.S.S.B. 737 by striking all below the enacting clause and substituting the following:

SECTION 1. Section 113.241, Natural Resources Code, is amended to read as follows:

Sec. 113.241. RULES REGARDING RESEARCH AND EDUCATION. The commission may adopt all necessary rules relating to the purposes of this subchapter and activities ~~[conducting research and educating the public]~~ regarding the use of LPG and other environmentally beneficial alternative fuels that are or have the potential to be effective in improving the quality of air in this state.

SECTION 2. Section 113.242, Natural Resources Code, is amended to read as follows:

Sec. 113.242. ADVISORY COMMITTEES. The commission may appoint one or more advisory committees composed of members representing the LPG industry, other environmentally beneficial alternative fuels industries ~~[and other alternative fuels industry]~~, consumers, and other interests to consult with and advise the commission on opportunities and methods to expand the use of LPG and other environmentally beneficial alternative fuels.

SECTION 3. Section 113.243, Natural Resources Code, is amended to read as follows:

Sec. 113.243. ALTERNATIVE FUELS RESEARCH AND EDUCATION FUND.

(a) The alternative fuels research and education fund is created in the state treasury.

(b) The fund consists of money from:

(1) fees charged under this subchapter;

(2) the penalties for the late payment of the fee charged under this subchapter;

(3) other funds that the commission receives under subsection (e) of this section; and

(4) interest earned on amounts in the fund.

(c) The fund may be used only by the commission to pay for activities relating to the specific fuel from which the fee or gift was derived, including direct and indirect costs relating to:

(1) researching all possible uses of LPG and other environmentally beneficial alternative fuels to enhance air quality;

(2) researching, developing, and implementing marketing, advertising, and informational programs relating to alternative fuels to make alternative fuels more understandable and readily available to consumers;

(3) developing and implementing conservation and distribution plans to minimize the frequency and severity of disruptions in the supply of alternative fuels;

(4) developing a public information plan that will provide advisory services relating to alternative fuels to consumers;

(5) developing voluntary participation plans to promote the use of alternative fuels by federal, state, and local agencies;

(6) other functions the commission determines are necessary to add to a program established by the commission for the purposes of promoting the use of LPG or other environmentally beneficial alternative fuels; and

(7) the administrative costs incurred by the commission under this subchapter.

(d) If a specific fee, grant, gift, or other money authorized under this subchapter is designated for or collected from discrete components of the alternative fuels industry, ~~[other than LPG,]~~ the fee, grant, gift, or other money shall be deposited in a separate account within the fund.

(e) The commission may apply for, request, solicit, contract for, receive, and accept money and other assistance from any source for the purposes of this subchapter. Money received under this subsection shall be deposited in a separate account within the fund as provided in Subsection (d) of this section.

SECTION 4. Chapter 113, Natural Resources Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ALTERNATIVE FUELS COUNCIL

Sec. 113.260. Definitions. In this subchapter, "Council" means the Alternative Fuels Council.

Sec. 113.261. CREATION OF AN ALTERNATIVE FUELS COUNCIL.
There is created a council to be known as the Alternative Fuels Council.

Sec. 113.262. COMPOSITION. The Council shall be composed of six members: the Commissioner of the General Land Office, the members of the Texas Railroad Commission, the Chairperson of the General Services Commission, and the Chairperson of the Texas Department of Commerce, or any of their designees from the respective entities. The initial Chairman of the Council shall be the Commissioner of the General Land Office. Chairmanship of the Council shall rotate on a yearly basis between the Commissioner of the General Land Office and the Chairman of the Railroad Commission of Texas.

Sec. 113.263. DEVELOPMENT OF A PROGRAM. The Council shall coordinate a comprehensive program to be carried out by the agencies of the state in support of the use of environmentally beneficial alternative fuels and shall recommend, seek approval for and allocate oil overcharge and other funds that have been appropriated or designated for the purposes of this subchapter and Subchapter K of this chapter.

Sec. 113.264. RULES. In coordinating a comprehensive program to support the use of environmentally beneficial alternative fuels, the Council is specifically authorized to set policies and adopt rules necessary to achieving the purposes of this subchapter.

SECTION 5. Chapter 113, Natural Resources Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ALTERNATIVE FUELS CONVERSION

Sec. 113.270. DEFINITIONS. (a) "Council" means the Alternative Fuels Council as established in Subchapter J of this Chapter.

Sec. 113.271. LEGISLATIVE FINDINGS. The legislature finds that this subchapter serves the public purposes of development and diversification of the economy of the state, elimination of unemployment or underemployment in the state, and the development or expansion of transportation or commerce in the state, as stated by Article III, Section 52-a, of the Texas Constitution.

Sec. 113.272. ALTERNATIVE FUELS CONVERSION FUND. (a) The alternative fuels conversion fund is a fund in the state treasury.

(b) Monies in the fund may be allocated only by a majority vote of the Council to pay for activities relating to the specific fuel or fuels from which any monies, grants or gifts were derived. Any monies, grants or gifts authorized under this subchapter designated for or collected from discrete components of the alternative fuels industry shall be deposited in separate accounts within the fund.

(c) The fund consists of:

(1) oil overcharge funds as appropriated by Section 129 of Article V of the General Appropriations Act, Acts of the 73rd Legislature, Regular Session, 1993;

(2) gifts and grants authorized under this subchapter;

(3) other funds or monies as designated by the legislature or the executive branch;

(4) payments of principal and interest on loans made under this subchapter; and

(5) interest earned on amounts in the fund.

(d) The Council may apply for, request, solicit, contract for, receive,

and accept money and other assistance from any source for the purposes of this subchapter. Money received under this subsection shall be deposited as provided by subsection (b) of this section.

(e) Monies in the fund may be used as determined by the Council as provided in subsection (b) of this section only for the purposes of this subchapter, including the payment of the costs of administering this subchapter, unless otherwise prohibited by federal law or regulations.

Sec. 113.273. AUTHORIZATION OF CONVERSION LOANS: RULES. (a) The Council may allocate money in the alternative fuels conversion fund to make loans, grants or other appropriate distributions to eligible borrowers to fund eligible conversion and infrastructure projects and for other purposes subject to applicable United States Department of Energy regulations and approval.

(b) The Council shall adopt rules necessary to administer this subchapter including provisions for the ultimate distribution of funds and repayment of any loans in accordance with United States Department of Energy rules and regulations when applicable.

Sec. 113.274. ELIGIBLE BORROWERS AND PROJECTS. (a) Eligible individuals and businesses as defined by rules of the Council, specifically including historically underutilized businesses, low income individuals, institutions of higher education, and health care facilities, are eligible to receive a loan, grant or other disbursements determined by the Council to carry out eligible conversion and infrastructure projects.

(b) A state agency, county, municipality, school district, or mass transit authority or department is eligible to receive a loan, grant or other disbursement determined by the Council under this subchapter to carry out eligible conversion and infrastructure projects to LPG, natural gas, and other environmentally beneficial alternative fuels, to comply with Chapters 1189 or 1190, Acts of the 71st Legislature, Regular Session, 1989.

(c) Infrastructure refueling projects receiving construction funds under this subchapter shall be accessible to serve the general public.

Sec. 113.275. LOAN AMOUNT; INTEREST. The Council may provide that a loan under this subchapter to a state agency, county, municipality, school district, or mass transit authority or department does not bear interest. A loan to any other entity must bear interest. The Council shall set the rate of interest on an interest-bearing loan at a rate that is not greater than the auction average rate quoted on a bank discount basis for 26-week treasury bills issued by the United States government, as published by the Federal Reserve Board, plus two percent.

Sec. 113.276. TERM OF LOAN. All amounts due on a loan under this subchapter must be paid not later than five years after the date of the loan.

Sec. 113.277. TRANSFER OF VEHICLE OR PROPERTY. A borrower may not transfer a vehicle or other property converted to the use of alternative fuels with money lent under this subchapter before all amounts due on the loan and attributable to that vehicle or equipment are paid, unless before the transfer of the vehicle the conversion equipment is removed and installed on another vehicle owned by the borrower.

SECTION 6. If any provision in Section 4 and 5 of this Act conflicts with another statute enacted by the 73rd Legislature, Regular Session, 1993, this Act controls.

SECTION 7. This Act takes effect September 1, 1993.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Bivins and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Moncrief and Montford asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 737 ON THIRD READING

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 737 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0, Present-not voting 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Present-not voting: Moncrief, Montford.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Moncrief and Montford asked to be recorded as "Present-not voting" on the final passage of the bill.

SENATE JOINT RESOLUTION 17 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.J.R. 17, Proposing a constitutional amendment relating to the manner in which vacancies are filled on the governing bodies of certain municipalities.

The resolution was read second time.

Senator Brown offered the following committee amendment to the resolution:

Amend S.J.R. 17, Section 1 by striking the words "The next regular municipal election must occur not later than the second anniversary of the date of the vacancy" and inserting the words "If the next regular municipal election does not occur by the second anniversary of the date of the vacancy, then the municipality shall call a special election."

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to engrossment by a viva voce vote.

SENATE JOINT RESOLUTION 17 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.J.R. 17 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The resolution was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 472 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 472, Relating to the practice of pharmacy, including the Texas State Board of Pharmacy, dangerous drugs, and controlled substances.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Amend C.S.S.B. 472 as follows:

On page 6, lines 23-36, strike Subsection (5) in its entirety and substitute the following:

"(5) the specifications of conditions under which a pharmacist may administer medications which at a minimum shall include the following:

(A) a licensed health care provider authorized to administer the medication is not reasonably available to administer the medication;

(B) failure to administer the medication might result in a significant delay or interruption of a critical phase of drug therapy;

(C) the pharmacist possesses the necessary skill and education to administer the medication;

(D) the pharmacist notifies the appropriate licensed health care provider responsible for the patient's care within a reasonable time that the medication was administered.

(E) the authority of the pharmacist to administer medications may not be delegated.

(F) nothing in this paragraph shall be construed to prohibit a pharmacist from preparing or manipulating biotechnological agents or devices; and

(G) nothing in this paragraph shall be construed as prohibiting a pharmacist from performing an act delegated by a physician in accordance with the provisions of Subsection (d), Section 3.06, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) and the pharmacist performing such a delegated medical act shall be considered to be performing a medical act and not as engaged in the practice of pharmacy."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Madla and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 472 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 472 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Bivins asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 491 ON SECOND READING

Senator Lucio asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 491, Relating to faculty representation on the governing boards of certain institutions of higher education.

There was objection.

Senator Lucio then moved to suspend the regular order of business and take up C.S.S.B. 491 for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Armbrister, Barrientos, Brown, Carriker, Haley, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Harris of Tarrant, Harris of Dallas, Parker, Sibley.

Absent: Ellis, Henderson.

Absent-excused: Nelson.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Amend C.S.S.B. 491 in SECTION 1, by striking Subsections (b) and (c) of Section 63.28, Education Code, and substituting a new Subsection (b) to read as follows:

(b) Any costs incurred by the advisory faculty liaison or by the alternate advisory faculty liaison shall be paid by the advisory faculty liaison or by the alternate advisory faculty liaison, as appropriate.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 491 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 491 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Armbrister, Barrientos, Brown, Carriker, Ellis, Haley, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Harris of Tarrant, Harris of Dallas, Parker, Sibley.

Absent: Henderson.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Harris of Tarrant, Harris of Dallas, Bivins, Sibley, and Parker asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 405 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 405, Relating to the continuation of the Texas Department of Commerce.

The bill was read second time.

Senator Carriker offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 405 as follows:

(1) In the introductory language of Section 6 (Committee Printing, page 2, line 69), strike “(f) and (g)” and substitute “(a), (f), and (g)”.

(2) Between the introductory language of Section 6 (Committee Printing, page 2, line 70) and Section 481.010(f), Government Code, as amended by the bill (Committee Printing, page 3, line 1), insert the following:

(a) The executive director shall employ personnel necessary for the performance of department functions. In addition to other personnel, the executive director shall employ a human rights officer and an internal auditor. The internal auditor shall report directly to the policy board and may consult with the executive director or the executive director's designee ~~[the governor]~~.

(3) In Section 9 strike Section 481.021(a), Government Code, as amended by the bill (Committee Printing, page 3, lines 47-67), and substitute the following:

(a) The department may:

- (1) adopt and enforce rules necessary to carry out this chapter;
- (2) adopt and use an official seal;
- (3) accept gifts, grants, or loans from and contract with any entity;
- (4) sue and be sued;
- (5) acquire and convey property or an interest in property;

(6) procure insurance and pay premiums on insurance of any type, in accounts, and from insurers as the department considers necessary and advisable to accomplish any of the department's purposes; ~~and~~

(7) hold patents, copyrights, trademarks, or other evidence of protection or exclusivity issued under the laws of the United States, any state, or any nation and may enter into license agreements with any third parties for the receipt of fees, royalties, or other monetary or nonmonetary value;

(8) sell advertisements in any medium; and

(9) exercise any other power necessary to carry out this chapter.

(4) Strike Sections 21-23 (Committee Printing, page 8, lines 54-70 and page 9, lines 1-37) and substitute the following:

SECTION 21. Subchapter L, Chapter 481, Government Code, is amended by adding Section 481.174 to read as follows:

Sec. 481.174. ADVERTISEMENTS IN TOURISM PROMOTIONS.

(a) The department may sell advertisements in travel promotions in any medium.

(b) The policy board shall adopt rules to implement the sale of advertisements under Subsection (a), including rules regulating:

- (1) the cost of advertisements;
- (2) the type of products or services that may be advertised;
- (3) the size of advertisements; and

(4) refunds on advertisements that are not run.

(c) Proceeds from the sale of advertisements shall be deposited in the special account in the general revenue fund that may be used for advertising and marketing activities of the department as provided by Section 156.251, Tax Code.

SECTION 22. Section 8, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended by adding Subsection (i) to read as follows:

(i) Not later than December 1 of each year, the department shall prepare an annual cost-benefit analysis of the program and submit it to the state auditor for review and comment on the methodology and conclusions of the study. Before each regular legislative session convenes, the state auditor shall submit the analyses and the state auditor's comments on the analyses to the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 23. Subsections (f) and (k), Section 10, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), are amended to read as follows:

(f) The department shall allocate to each enterprise project at the time of its designation a job ceiling number representing the maximum number of new permanent jobs or retained jobs eligible to be included in any calculation for a tax refund for the enterprise project. The job ceiling number for a project may not exceed 625 or a number equal to 110 percent of the number of new permanent jobs or retained jobs that a qualified business in its application for designation commits to create or retain, as applicable, during the five-year term of its designation as an enterprise project, whichever is less. ~~[The maximum number of new permanent jobs that may be allocated by the department among all enterprise projects designated under this section between August 31, 1991, and August 31, 1993, is 10,000.]~~

(k) The number of new permanent jobs or retained jobs that have not been ~~certified~~ allocated before the end of the first ~~[each state fiscal]~~ year of a state fiscal biennium may be certified during the second year of that biennium ~~[allocated in subsequent fiscal years, except that an enterprise project may not be designated after August 31, 1993].~~

(5) Strike Section 25 (Committee Printing, page 9, lines 46-51) and substitute the following:

SECTION 25. The Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) is amended by adding Sections 5A and 5B to read as follows:

Sec. 5A. RULES. The policy board of the Texas Department of Commerce shall adopt necessary rules for the implementation and management of the job-training program.

Sec. 5B. CONTESTED CASES. A proceeding of the Texas Department of Commerce involving the job-training program is not subject to the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments relating to contested cases.

(6) Between Sections 28 and 29 (Committee Printing, page 10, between lines 34 and 35), insert new Sections 29 and 30 to read as follows:

SECTION 29. During the state fiscal biennium beginning September 1, 1993, the Texas Department of Commerce may not certify more than 8,000 new permanent jobs or retained jobs under Subsection (f), Section 10, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), among enterprise projects designated after August 31, 1993. An enterprise project designated after August 31, 1993, may not receive a tax refund under Section 151.429, Tax Code, or a tax reduction under Section 171.1015, Tax Code, before September 1, 1995.

SECTION 30. (a) The state auditor shall conduct a study to review the impact of the program created under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) since its implementation. The comptroller, the Texas Employment Commission, and the Texas Department of Commerce shall provide the state auditor with data and assistance as necessary to complete the study. At a minimum, the study shall include:

(1) an examination of the impact of the program on the state as a whole as well as the impact on individual communities with enterprise zones, including the program's effect on:

- (A) state and local tax revenues;
- (B) state and local tax bases;
- (C) state and local socio-economic conditions; and
- (D) state and local unemployment rates;

(2) a review of the incentives offered by local communities and the relative impact of the incentives on company location, expansion, and retention; and

(3) a survey of companies to determine the role of the state enterprise zone incentives on decisions of companies to locate, expand, or retain jobs in the zone.

(b) The state auditor shall complete the study required by this section and submit a report of its findings to the governor, lieutenant governor, and the speaker of the house of representatives no later than October 1, 1994.

(7) Renumber Sections 29-34 as Sections 31-36.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 405 on page 9, line 61, by striking SECTION 27 of the bill and renumbering subsequent sections appropriately.

The amendment was read and was adopted by the following vote:
Yeas 16, Nays 10.

Yeas: Armbrister, Bivins, Brown, Haley, Harris of Tarrant, Harris of Dallas, Leedom, Lucio, Moncrief, Patterson, Ratliff, Shapiro, Shelley, Sibley, Turner, Wentworth.

Nays: Barrientos, Carriker, Ellis, Luna, Madla, Parker, Rosson, West, Whitmire, Zaffirini.

Absent: Henderson, Montford, Sims, Truan.

Absent-excused: Nelson.

On motion of Senator Carriker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 405 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 405 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Nelson.

The bill was read third time and was passed by a viva voce vote.

MEMORIAL RESOLUTION

S.C.R. 73 - By Luna: In memory of Graciela Inocencio Trevino of San Antonio.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.C.R. 75 - By Barrientos: Honoring teachers and students participating in the H.E.B./General Land Office Environmental Challenge and declaring April 30, 1993, Environmental Challenge Day.

S.R. 635 - By Shelley: Congratulating Mayor Haden E. McKay, M.D., who received the 1992 Dr. Nathan Davis Award from the American Medical Association in the category of Mayor of a City.

S.R. 651 - By Ellis: Commending the Gulf Coast Chapter of People Against Violent Crime and declaring April 25 through May 1, 1993, National Victims' Rights Week in Houston.

S.R. 652 - By Luna: Congratulating John Christian Schuepbach on achieving the rank of Eagle Scout.

S.R. 653 - By Armbrister: Commending R. Eugene Johnson on his service as manager of the Aransas County Airport.

S.R. 655 - By Sims: Commending Cooper High School for its positive approach to preventing drug and alcohol abuse with its awareness campaign, FREE.

S.R. 656 - By Lucio: Recognizing Wayne A. Showers for his accomplishments as a member of the Board of Regents of Texas A&M University.

S.R. 657 - By Turner: Congratulating Mrs. Frank Beseda on the occasion of the recognition of the Reeves-Womack-Beseda house of Caldwell by the National Register of Historic Places.

S.R. 658 - By Barrientos: Congratulating George S. Hinkle of Driftwood, who was named 1992 Breeder of the Year by the International Brangus Breeders Association during the Houston Livestock Show and Rodeo.

S.R. 659 - By Barrientos: Recognizing Ortega Elementary School of Austin for its selection by Redbook magazine as one of the best schools in the country.

S.R. 660 - By Barrientos: Congratulating Joe Cliett of San Marcos on the occasion of his 90th birthday.

S.R. 661 - By Barrientos: Congratulating Roy Montelongo, who was recently inducted into the Tejano Hall of Fame.

S.R. 662 - By Moncrief: Recognizing the Reverend Weldon George Daniels for his 23 years of service as Pastor of the Pilgrim Valley Missionary Baptist Church of Fort Worth.

S.R. 663 - By Moncrief: Recognizing the members of Volunteers of America, Northern Texas, Incorporated, for the services they provide to the people of North Texas.

S.R. 664 - By Truan: Welcoming Tadanabu Umeyama and a delegation of Executive Board Members from Zendentsu, Japan Telecommunications Workers Union, to Austin.

S.R. 665 - By Truan: Congratulating the coaches and members of the Flour Bluff High School girls basketball team for their accomplishments during the 1992-1993 season.

S.R. 666 - By Zaffirini, Barrientos: Recognizing Dr. Crispin E. Sanchez for his 22 years of service as Dean of Student Personnel Services at Laredo Junior College.

S.R. 668 - By Montford: Recognizing the retirement of Bobby G. Rogers after 40 years of service as a court reporter for the courts of Texas.

ADJOURNMENT

On motion of Senator Harris of Dallas, the Senate at 1:49 p.m. adjourned until 9:30 a.m. tomorrow.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

April 20, 1993

JURISPRUDENCE — C.S.S.B. 820, C.S.S.B. 516, S.B. 515 (Amended), C.S.S.B. 291, H.B. 1274, H.B. 791, H.B. 681, C.S.H.B. 600, H.B. 49, S.B. 868 (Amended), C.S.S.B. 858, C.S.S.B. 236

April 21, 1993

ECONOMIC DEVELOPMENT — S.J.R. 9, S.B. 444, H.B. 1388, S.B. 750, S.B. 555 (Amended), S.B. 888, S.B. 1277, C.S.S.J.R. 10

HEALTH AND HUMAN SERVICES — C.S.S.B. 1142, S.B. 290, C.S.S.B. 184, C.S.S.B. 1098

STATE AFFAIRS — S.B. 1312, C.S.S.B. 1181, S.B. 540, S.B. 738, C.S.S.B. 992, S.B. 450

HEALTH AND HUMAN SERVICES — C.S.S.B. 714

SENT TO GOVERNOR

(April 21, 1993)

S.B. 196	S.B. 176
S.B. 266	S.B. 249
S.B. 502	S.B. 374
S.B. 503	S.B. 591
S.B. 504	S.B. 593
S.B. 615	S.B. 680
S.B. 1069	

FIFTY-SECOND DAY

(Thursday, April 22, 1993)

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Bivins.

A quorum was announced present.

The Reverend Marshall Moore, Sunset Canyon Baptist Church, Dripping Springs, offered the invocation as follows:

Our heavenly Father, this morning we ask for guidance in our lives, wisdom in decision making, strength for the daily tasks. We thank You for all of life's blessings. Bless the work of the Senate today as they go about their responsibilities of addressing the issues and concerns of those they represent. To these assembled we pray You will give a sense of Your presence with them in their deliberation. In Your name we pray. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.